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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,125	12/11/2001	Lawrence Steven Salant	455610-2510	1969
20999	7590	08/25/2004	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				LAU, TUNG S
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/015,125	SALANT ET AL.	
	Examiner	Art Unit	
	Tung S Lau	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-34 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 18, 24, 28, 29, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19-23, 25-27, 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Chery et al. (U.S. Patent 6,124,847).

Regarding claim 1:

Chery discloses an oscilloscope apparatus, comprising: a display for displaying a plurality of data signals acquired and processed by the oscilloscope (fig. 1d, unit 34); a user interface for selecting one of said displayed data signals (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262); and a toolbar comprising a plurality of choices displayed on said display (fig. 27a, unit 550, Col. 65, Lines 27-51, Col. 65, Lines 27-51), the displayed plurality of choices being selected from among a universal set of choices (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262) only the most common ones of said universal set of choices that apply to the selected data signal determined by the characteristics of the type selected data signal being displayed in the toolbar (Col. 65, Lines 27-51), the selected data signal being defined as the data source

for displayed (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262) the items of the toolbar Col. 65, Lines 27-51, fig. 27c).

Regarding claim 18:

Chery discloses an oscilloscope apparatus, comprising: a display for displaying a plurality of received or processed data signals (fig. 1d, unit 34, fig. 27a, 27b), a user interface for selecting one of said displayed data signals displayed on said display (fig. 27b, fig. 27c, unit 570, 574, 576), and a pop-up context sensitive toolbar displayed on said display, said context sensitive toolbar displaying a plurality of choices being selected from among a universal set of choices (fig. 27a, unit 550, Col. 65, Lines 27-51, Col. 65, Lines 27-51) only the most common ones of said universal set of choices that apply to said selected data signal determined by the characteristics of type of the selected data signal being displayed on a toolbar (Col. 65, Lines 27-51), the selected data signal being defined as the data source for the items of the toolbar (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262 , fig. 27c, Col. 65, Lines 27-51).

Regarding claim 24:

Chery discloses a method for viewing a waveform on an oscilloscope, comprising the steps of: displaying a plurality of data signals acquired and processed by the oscilloscope (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262, fig. 11d, unit 20, 36); selecting one of said data signals displayed on said display (fig. 27b); and displaying a toolbar comprising a plurality of choices, the displayed plurality of choices being selected from among a universal set of

choices (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262), only the most common ones of said universal set of choices (Col. 65, Lines 27-51, fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262) that apply to the type selected data signal determined by the characteristics of the selected data signal being displayed in the toolbar (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262, Col. 65, Lines 27-51), the selected data signal being defined as the data source for the displayed items of the toolbar (fig. 11d).

Regarding claim 28

Chery discloses a method for viewing a waveform on an oscilloscope, comprising the steps of displaying a plurality of data signals acquired and processed by the oscilloscope (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262, Col. 65, Lines 27-51), selecting one of said data signals displayed on said display (fig. 11d, fig. 27a, b); and displaying a pop-up context sensitive toolbar, said context sensitive toolbar displaying a plurality of choices being selected from a universal set of choices (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262) only the most common ones of said universal set of choices (Col. 65, Lines 27-51) that apply to said selected ' data signal determined by the characteristics of the type of selected data signal being displayed in the toolbar (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262, Col. 65, Lines 27-51), the selected data signal being defined as

the data source for the displayed items of the toolbar (Col. 65, Lines 27-51, fig. 11d, 27b).

Regarding claim 29

Chery discloses an oscilloscope apparatus, comprising: an acquisition unit for acquiring a waveform (Col. 65, Lines 27-51, fig. 11d, 27b); a processor for processing said waveform to obtain a plurality of measurements (fig. 12, unit 238); a renderer for displaying said waveform and a plurality data signals acquired and processed by the oscilloscope respectively and showing the plurality of measurements on a display (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262, Col. 65, Lines 27-51, fig. 11d, 27b, fig. 12, unit 238, fig. 16a); a toolbar comprising a plurality of choices displayed on said display (Col. 65, Lines 27-51, fig. 11d, 27b); and (Col. 65, Lines 27-51, fig. 11d, 27b), the displayed plurality of choices being selected from among a universal set of choices (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262) displaying only the most common ones of said universal set of choices that apply to the selected data signal determined by the characteristics type of the selected data signal being displayed (fig. 27a, unit 564, fig. 27e, unit 520, fig. 28a, fig. 14, unit 258, 260, 262, Col. 65, Lines 27-51, fig. 11d, 27b), the selected data signal being defined as the data source for the items of the toolbar (Col. 65, Lines 27-51, fig. 11d, 27b).

Regarding claim 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19-23, 25-27, 30-34:

Chery discloses the data signal is a waveform (fig. 11c, unit 36); data is a measurement signal (fig. 11c); curser value (fig. 11c, unit 10, 36); item is a change type (fig. 11d, unit 36); item is a turn off (fig. 11d, unit 36); data is a parameter (fig. 11d, unit 36); data is a trend (fig. 11d, unit 36); data is setup (fig. 11d, unit 36), is a histogram (fig. 11d, unit 36); data is a channel (fig. 11d, unit 36); is a setup channel (fig. 11d, unit 36), a define zoom (fig. 11d, unit 36, fig. 27b); is a meth trace (fig. 11d, unit 36); is a define measurement (fig. 11d, unit 36); data is a trace (fig. 11d, unit 36); data is a grid (fig. 11d, unit 36); toolbar are predetermined (Col. 65, Lines 27-51, fig. 27a, b); prior use of the toolbar of the data (fig. 27b); items is display with data signal (fig. 27b, fig. 11c); data based on one or more value of the signal (fig. 11c); The items was not on previously presented on the toolbar (fig. 27a, unit 564, 566,560), case sensitive toolbar (fig. 14).

Response to Arguments

2. Applicant's arguments filed 8/18/2004 have been fully considered but they are not persuasive.

A. Applicant argues in the lengthy arguments that the prior art does not show the word 'oscilloscope'. Reminds to the applicants while the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be

applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). While the actual word ‘oscilloscope’ was not used in Chery’s patent, the invention has everything to do with “oscilloscope” which is defined as ‘an instrument in which the variations in a fluctuating electrical quantity appear temporarily as a visible wave form on the fluorescent screen of a cathode-ray tube’ in Merriam-Webster Online dictionary. Chery discloses ‘an instrument in which the variations in a fluctuating electrical quantity appear temporarily as a visible wave form on the fluorescent screen of a cathode-ray tube’ in fig. 1b, unit 22, 1d, 1h, 1l, 11b, unit 36.

B. Applicant continues to argue in the lengthy arguments that the prior art does not show the ‘signal acquired and process by the oscilloscope’. Chery discloses ‘signal acquired and process by the oscilloscope’ in fig. 1b, unit 22, 1d, 1h, 1l, 11b, unit 36.

C. Applicant continues to argue in the lengthy arguments that the prior art does not show the ‘most common use ones of a universal set of choices apply to data signal’. Chery discloses ‘most common use ones of a universal set of choices apply to data signal’ in fig. 27a, unit 564, 571, 566, 560, fig. 11b, unit 10, 11d, unit 10.

D. Applicant continues to argue in the lengthy arguments that the prior art does not show the 'customization of menu'. Chery discloses 'customization of menu' fig. 27a, unit 564, 571, 566, 560, 570, 562.

Reminds to the applicants that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

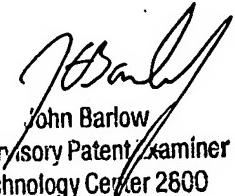
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2863

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL



John Barlow
Supervisory Patent Examiner
Technology Center 2800